

**THE COMMON COUNCIL OF THE CITY OF NEW ALBANY,  
INDIANA HELD A MEETING IN THE CITY/COUNTY BUILDING  
ON MONDAY, FEBRUARY 5, 2007.**

The meeting of the **New Albany City Council** was called to order by President Larry Kochert at 7:30 p.m. The meeting opened with Pastor Fredricka Moore, Bethel A.M.E. Church, giving the invocation and the Pledge of Allegiance.

**MEMBERS PRESENT:** Council Members Mr. Coffey, Mr. Schmidt, Mr. Price, Mrs. Crump, Mr. Gahan, Mr. Blevins, Mr. Messer, Mr. Zurschmiede, and President Larry Kochert.

**OTHERS:** Council Attorney Jerry Ulrich and City Clerk Marcey Wisman.

**ALSO:** John Rosenbarger, Planning and Zoning, Shane Gibson, City Attorney, Anthony B. Toran, Director of City Operations and Mayor James E. Garner, Sr.

**APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:**

**Mr. Coffey moved to approve the Public Hearing minutes of January 4, Mr. Gahan second, all voted in favor.**

**Mr. Coffey moved to approve the minutes of the January 18, 2007 meeting, Mr. Messer second, all voted in favor.**

**COMMUNICATIONS – PUBLIC:**

**Valla Ann Bolovshak**, spoke regarding Z-07-01 and stated that she has discussed this development with the director of INDOT and he claimed that the developers would have to follow everything in the geotechnical report or there would be great problems. She read areas of concern from the study that was previously presented to the council. She stated that the INDOT engineer felt that the ordinance before them tonight was poor and did not meet the requirements of a PUD. She stated that the traffic study is already showing failures in the area. She recommended that this be sent back to Planning and zoning.

**Bob Williams**, District Deputy Commissioner for INDOT, ask that they try to see that projects such as this be brought to the transportation department prior to approving them because they will have an effect on their highways.

**Ed Cox**, Traffic Engineer INDOT, stated that he has concern with how this will affect the interchange for the interstate and asked that they contact them prior to these PUD's being passed.

**Annie Savino**, 2229 Faucett Hill Road, spoke in opposition of Z-07-01 and what the ordinances require to be included in PUD's in for them to be approved. She pointed out which required information is not included in Z-07-01 and recommended that they send it back to the Plan Commission until this information is complete.

**Lou Savino**, 2229 Faucett Hill Road, spoke in opposition of Z-07-01. He was concerned with the slope erosion behind Home Depot and he feels that this development will further deteriorate the slope and cost the city for maintenance and repair.

**Becky Gardnour**, 503 Captain Frank Road, spoke in opposition to Z-07-01 because she feels that these new tall buildings and proposed businesses will take away from this neighborhood. She discussed how this development does not meet the City Comprehensive Plan that stipulates that they are to preserve urban forest areas. She feels that it will lower the property values of the existing homes.

**John Gondor**, 2307 Faucett Hill, presented an excerpt from the City's Comprehensive Plan and discussed how the development in Z-07-01 does not comply with this plan.

**Eric Hoeler**, Engineer for Home Depot, stated that Home Depot would like to be given the opportunity to review any plans for this area prior to construction due to the problems that they are having with the slope behind their store.

**Richard Duggins**, made a statement regarding the actions at the prior meeting where in he was given the opportunity to speak on the Fire Hiring ordinance and Rev. Lacy Evans was not. He felt that this was wrong and that Rev. Evans should have been given the opportunity to speak. He also stated that it was disrespectful to Chief Toran that he was not invited to the meeting to discuss the Fire Hiring ordinance. He stated that he believes that the ordinance before them is fair to everyone and should be passed.

**Brandon Lawrence**, spoke on the subject of the Fire Hiring ordinance and feels that the ordinance before them is more fair and equitable than what is currently on the books. He felt that everyone should be given the opportunity to look over study materials before taking the test.

**Steve Burks**, spoke on the issue of G-06-21 stated that he feels that many times that we may over-look the qualifications of an individual and look more at their personality and that the current fire hiring ordinance is appropriate.

**Dick Stewart**, gave a statement regarding his opinion of G-06-21 and stated that he feels that individuals are here tonight to intimidate the council into passing this ordinance which will lower the standards of the individuals hired.

**Neal Smith**, New Albany Elks, spoke in opposition of the proposed smoking ban. He present a resolution from the Elks that asks that they exempt service clubs from the smoking ban. Said resolution is on file with the City Clerk's office.

**Jerry Caudill**, American Legion Bonnie Sloan , spoke in opposition of the smoking ban. He presented a resolution from the legion that asks that they exempt service clubs from the smoking ban. Said resolution is on file with the City Clerk's office.

**Connie Keith**, Floyd County Alcohol and Tobacco coalition, spoke in favor of the smoking ban.

**Dr. Michael Bousamra**, Head of the Thoracic Department and the Brown Cancer Center, spoke in favor of the smoking ban and discussed the health issues that are caused by second hand smoke.

**Scott Johnson**, YMCA, spoke in favor of the smoking ban and discussed the harmful effects of second hand smoke on children.

**Dianna Pittman**, 1605 Culbertson Avenue, informed the council that even as a smoker she is in favor of the smoking ban. She told of her son's who suffer from life threatening conditions who cannot go to certain establishments because of the smoke.

**Jamey Abersold**, spoke in favor of the smoking ban ordinance and discussed the issue of the numerous negative effects smoking has on the body. He showed examples of a healthy lung and lungs affected by cancer.

**Mark Truman**, Floyd Memorial Hospital, 1036 Chapel Lane, spoke in favor of the smoking ban ordinance and the fact that the state of Indiana is ranked 12<sup>th</sup> in the top states for smoking deaths.

**Dave Tiller**, 2307 Faucett Hill Road, spoke in opposition of Z-07-01 and asked why the entire 64 acres needs to be included in the PUD and why they don't just worry about the North portion now and deal with the South portion latter.

**Greg Sekula**, spoke to the resolution to add money to the fund to demolish houses and the need for revitalizing the downtown housing. He spoke about a program used in other areas wherein the Redevelopment Commission gains ownership of blighted homes and

sells them to an individual with the stipulation that they will rehab the homes and live in them for up to 10 years.

**Mr. Blevins** asked what the problem was with tearing down these homes and make room for development in the downtown area.

**Mr. Sekula** explained that in city's with historic districts such as ours whenever home ownership is promoted in these downtown historic areas downtown redevelopment thrives.

**Ted Fulmore** spoke in favor of R-07-06 and discussed the importance of revitalization of the historic district.

**Ian Koffher**, stated that he was the attorney representing Product Specialties, Inc. in regards to ordinance G-07-01. He explained that the city would not be responsible for paying these bonds that they were just making it possible for Product Specialties to apply for these bonds at a lower rate.

**Greg \_\_\_\_\_**, Product Specialties, explained that they would be using this bond to expand their business and they would be adding several new jobs.

**Mr. Price** asked what attorneys would be paid from this bond.

**Mr. Koffher** explained and his firm was doing the bond work.

#### **COMMUNICATIONS – CITY OFFICIALS:**

**Mr. Coffey** stated that he read in the Tribune that the council has an ad on the high school radio station and that they were under writing the program and he wanted to know where the money came from for this.

**Mr. Gahan** read the article and explained that he purchased the ad from his daughter who attends New Albany High School and he put the names of each council member and their district and the days and times of the meetings as a public service. He stated that he paid for the ad and that it was in no way done for self promotion.

**Mr. Coffey** also stated that after the last meeting he went home and spoke with his father about what happened during the public speaking section and he wanted to apologize to Rev. Evans for the way he was treated.

**Mrs. Crump** reported that she will be calling a meeting for the Ambulance Committee prior to the next council meeting.

**Mr. Price** stated that in regards to the Ambulance situation he believes that 65% is too high. He feels that we need to take care of the over-time in the fire and police departments and he suggested that the council and members of the administration sit down and work this problem out prior to budget time.

**Chief Ron Toran**, spoke on G-06-21. He stated that he was told that the only reason because of politics and it has nothing to do with politics the ordinance is broke and needs to be fixed.

**There was a lengthy discourse regarding the Fire Hiring ordinance and the many rumors surrounding it.**

**Steve LaDuke**, President Building Commission, thanked Mr. Schmidt for the resolution to add money to the building fund he explained that there are several houses that they have prioritized to be demoed with this money and he stated that 525 E. Market would be coming down very soon.

**Mr. Gahan** asked if the council could get a report regarding the number of sewer credits available.

**Mr. Kochert** asked that the reports that the sewer board receives regarding credits be given to the council.

**COMMUNICATIONS – MAYOR:**

**Mayor Garner** reported that they are waiting on an additional 200,000 sewer credits, but he could not say for sure what they currently had. He stated that on 525 E. Market Street the demo permit has been pulled. He asked that they pass the Fire Hiring ordinance because there current hiring ordinance is not fair.

**There was a lengthy discussion regarding the current hiring process and the number of minorities there currently are on the fire department. They also discussed the fire hiring committee meeting and the lack of respect shown to the Chief and the Mayor by not inviting them to be involved.**

**Mr. Blevins** asked if he could have a copy of the lease agreement between the City and Southern Indiana Waste.

**Mayor Garner** reminded him that he had been told that he could get that from Shane Gibson who had been out of the office this past week.

**Mr. Coffey** asked about where or not there was any property that Global can use to expand their building so that they do not leave the city.

**Mayor Garner** stated that they are working with Global to help them get what is necessary to stay in New Albany.

**There was a lengthy discussion regarding the needs of Global Mechanical and the need for additional land for industrial growth.**

**Mr. Gahan** asked questions regarding the current fire hiring ordinance.

**Mayor Garner** explained that when it was passed by the council the percentages were suppose to be 50% written test and 50% interview, but later it was penciled in 65% for the test and 20% for the interview but they never changed the paragraph that the test and the interview will carry equal weight.

**Mr. Price** asked if the Mayor would agree to working with the council to correct the problems with the fire and police department budgets.

**Mayor Garner** stated that he would but that does not effect the hiring process.

**APPOINTMENTS:**

(a) Drainage Board (Council Liaison)

**Mr. Kochert stated that he is appointing Mr. Coffey to act as the council liaison to the drainage board.**

**APPROVAL OF CF-1 FORMS:**

St. Edward Court, LP, Compliance with Statement  
of Benefits, Referencing R-00-03

**Mr. Coffey moved to approve, Mr. Price second, all voted in favor.**

INTRODUCTION OF ORDINANCES AND RESOLUTIONS:		READING
R-07-05	Resolution Concerning Statement of Benefits For L & D Mail Masters, Inc., by the Common Council of the City of New Albany	Blevins

**Mr. Blevins moved for the reading of R-07-05, Mr. Coffey second,**

**There was a lengthy discussion as to whether or not this needed to be a 10 year abatement or a 5 year abatement.**

**Mrs. Fischer** reported that they needed to 10 years that they are building onto there plant and that this will bring in new jobs.

**Mr. Coffey** stated that he thought they had decided to give 10 year abatements of property and 5 year abatements for equipment.

**Mr. Gahan** agreed with Mr. Coffey.

**all voted in favor by show of hands.**

R-07-06	Transfer of Funds	Schmidt
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**Mr. Schmidt moved for the reading of R-07-06, Mr. Price second,**

**Mr. Messer** asked if it should be amended to add language that we seek a tax lien rather than a mechanics lien.

**Mr. Ulrich** explained that as it is now written the city can take an active approach to foreclose on liens that are filed.

**There was a lengthy discussion regarding the best way to recoup any monies that the city spends to demolish condemned houses.**

**Mr. Gibson** explained that he did plan on aggressively going after reimbursement for the funds spent through foreclosures, but that if it is not spelled out he is not sure what someone might do in the future.

**Mr. Messer** suggested Mr. Schmidt table this so that the necessary language can be added for the liens.

**Mr. Schmidt withdrew his motion and tabled this resolution to be amended.**

**Mr. Schmidt asked the president to appoint a committee to look into the unsafe building issue and the avenues presented by the Historic preservation commission.**

**Mr. Kochert** stated that he would look into that.

G-06-21	An Ordinance to Amend Section 32-80 of the Code Of Ordinances: The New Albany Fire Department Candidate Selection Act	Blevins 1
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**Mr. Blevins moved for the first reading of G-06-21, Mr. Coffey second,**

**Mr. Gahan** asked that a member of the committee to discuss this proposed ordinance point by point.

**Mr. Blevins** went over the ordinance and discussed the break down of the percentages.

**Mr. Coffey** stated that he would like it added that the testing information be made available somewhere

**Mr. Zurschmeide** asked who wrote the ordinance and stated that he believes that this needs to be reviewed by an attorney because there are several issues that he believes could be problems. He also did not agree with individuals getting extra points because they had a relative on the fire department and he felt that the council should also have an appointment on the interview committee.

There was a lengthy discussion regarding how people are hired and how individuals are chosen to do the interviews for hiring process.

**Bill G-06-21 does not pass for the lack of a majority vote with 4 ayes from Mr. Coffey, Mr. Price, Mrs. Crump and Mr. Gahan, 3 nays from Mr. Blevins, Mr. Zurschmiede and Mr. Kochert and 2 abstentions from Mr. Schmidt and Mr. Messer.**

G-07-01	Ordinance of Intent to Issue Economic Development Revenue Bonds	Messer 1
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**Mr. Messer moved for the first reading of G-07-01, Mr. Coffey second,**

**Mr. Coffey** asked how much we have for bonds per year.

**Mr. Gibson** stated that the city can give up to \$10,000,000 per year.

**all voted in favor.**

G-07-02	An Ordinance to Prohibiting Smoking in Specified Areas	Crump 1
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**Mrs. Crump stated that her phone has not stopped ringing about this ordinance but she is going to table it because as it is written now she could not vote for it and asked that the president create a committee to work this out.**

**Mr. Kochert assigned Mrs. Crump and Mr. Gahan and Mr. Zurschmiede will be chairman.**

Z-07-01	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156 (Docket P-12-06: Pat & Pam Kelly – Summit Springs Development)	Crump 1
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**Mrs. Crump moved for the first reading of Z-07-01, Mr. Coffey second,**

**Mr. Schmidt made a motion to return it to the Plan Commission to review the fulfillment of reports that were not provided.**

**Mr. Coffey** stated that he would not withdraw his second because he has been following this and this can potentially bring in 200 jobs which are needed in the city.

**Mrs. Crump** stated that this came before the plan commission when she was on there at that they had a lot of major discussions and that it has been stipulated that an engineer and a geotechnical expert must be on-site at all times.

**Mr. Gahan** asked why there are so many issues that are not addressed in this PUD.

**Mr. Rosenbarger** explained that this has occurred on other projects because the developer can not incur the cost of some of the requirements until they know that the land use is possible.

**Mr. Blevins** asked about what will be done regarding the cracked walls behind Home Depot.

**Mr. Fifer** explained that his clients will never use concrete slab walls and described the materials that will be used to secure the wall.

**Mr. Gahan** asked Mr. Rosenbarger about the city’s Comprehensive Plan wherein it states that it is prohibited to develop in a Steep Slope area.

**Mr. Rosenbarger** explained that if you look further at the plan it does not prohibit all development of steep slopes areas it simply says that the development must have no or very little adverse impact.

**Mr. Zurschmiede** asked if the final plan will be brought to the council prior to the second and third reading.

**Mr. Rosenbarger stated that it would not.**

**Mr. Fifer** explained to the board what the plan for the development will be and the phases of the development. He also explained that he is going to ask their traffic engineers and the Board of public works to meet with INDOT to work out any problems there may be. He also informed the council that there is grant money available to improve intersections that have an impact on interstate exchanges and his clients are willing to put forth any matching funds that they may need.

**George Chapman**, Integra Realty Resources, addressed the board regarding the impact of the development on property values and real estate taxes. His report was presented to the council and is on file with the City Clerk’s office.

**Mr. Fifer** stated that the concerns that were presented by INDOT are similar to the concerns they voiced over the Meijers complex and they were not willing at that time to offer any solutions. He also showed that there will be a lot of green space which is necessary because of the steep slope. He also informed the council that the Kelly’s purchased the roadway that runs along Burger King extending Daisy Lane and has turned this over to the city.

**Mr. Zurschmiede** asked if the Kelly’s will be leasing these lots or selling.

**Mr. Kelly** stated that they have had several interested parties in the past and most of them would want to buy the property, but until this is passed there is nothing they can do and they will lose their interested buyers to other locations. He informed them that he has had several restaurants and hotels that have been interested in this location.

**all voted in favor except Mr. Schmidt who voted nay.**

Z-07-04	Ordinance Amending the Code of Ordinances of New Albany, Indiana, Title XV, Chapter 156 (Docket P-02-07: CDSN Properties, LLC)	Zurschmiede 1
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**Mr. Zurschmiede moved for the first reading of Z-07-04, Mr. Coffey second, all voted in favor.**

A-07-02	An Ordinance to Approve the 2006 Rates for the Communications (CWA) Employees	Crump 2&3
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**Mrs. Crump moved for the second and third reading of A-07-02, Mr. Price second, all voted in favor. Bill A-07-02 became Ordinance A-07-04.**

**MISCELLANEOUS COMMUNICATIONS:** (public comments on non-agenda items)

**Chief Harl** stated that he needs police cars badly. He currently has a code enforcement officer that has no car.

**Mr. Price** stated that he did not have a problem with giving them new cars but that he did not agree with these cars being taken out of the city.

**Chief Harl** stated to write an ordinance to do away with the take home cars and he would follow it, but he has been waiting months for them to decide on these cars and they just need to do something.

**Mr. Goldberg** asked Mr. Ulrich rather or not the laws of the State has changed regarding the full reading of ordinances on the first reading.

**Mr. Kochert** stated that they have not been read in full since back when he was on the council.

**Mr. Goldberg** stated that they had stopped because Mr. Gibbons did not want to listen to them, but he did not know if the State Statute had changed requiring that they be read. He stated that they need to be read so that the people in attendance would know exactly what they were voting on.

**Mr. Kochert** stated that they only needed to be read if there was not a way to make them available to the public.

**Mr. Zurschmiede** reported that he would not be at the next council meeting.

**Mr. Blevins** stated that he may not be able to make the next meeting either.

There being no further business before the council, the meeting adjourned at 11:47 p.m.

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Larry Kochert, President  
Common Council, City of New Albany

ATTEST: \_\_\_\_\_  
Marcey Wisman, City Clerk